

60709/00062950

Jay B. Itkowitz (JBI-5349)
Donald A. Harwood
Simon W. Reiff
ITKOWITZ & HARWOOD
305 Broadway, 7th Floor
New York, New York 10007
(646) 822-1801
jitzkowitz@itzkowitz.com
dharwood@itzkowitz.com
sreiff@itzkowitz.com

Attorneys for Plaintiff David Gilmore

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID GILMORE,

Plaintiff/Counterclaim
Defendant,

-against-

ABBY GILMORE *et al.*,

Defendants/Counterclaim
Plaintiffs,

-and-

CELE HOLDINGS, INC., and CIRS, LLC,

Nominal Defendants.

Case No.: 09 Civ. 6230 (WHP)

ECF Case

NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT

TAKE NOTICE, that upon the accompanying Declaration of Jay B. Itkowitz dated July 7, 2011, Declaration of David Gilmore sworn to on July 7, 2011, Local Rule 56.1 Statement of Material Facts, and Memorandum of Law in Support of Plaintiff's Motion For Partial Summary Judgment, and all other papers, pleadings, and proceedings heretofore had herein, Plaintiff David Gilmore ("Plaintiff") will move this Court, at the United States District Court for the Southern District of New York, located

at 500 Pearl Street, New York, New York 10007, on August 19, 2011, at 10:00 a.m., or
as soon thereafter as counsel can be heard, for an Order:

- (a) pursuant to Federal Rule of Civil Procedure 56, granting Plaintiff partial summary judgment and dismissing defenses (i), (ii), (vi), (vii), (xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xx), (xxiii), (xxvi), (xxviii), (xxx), (xxxi), (xxxii), (xxxv), (xxxviii), (xlii), (xliv), and the hanging paragraph after (xlvi);
- (b) pursuant to Federal Rule of Civil Procedure 56, granting Plaintiff partial summary judgment and dismissing counterclaims (I), (II), (III), and (VI) asserted by Defendants in the Pretrial Order dated June 2, 2011; and
- (c) granting such other and further relief as this Court may deem proper and just.

TAKE FURTHER NOTICE, that pursuant to an Order of this Court dated June 22, 2011 [Docket No. 105], opposition papers, if any, must be filed by July 28, 2011.

Dated: New York, New York
July 7, 2011

ITKOWITZ & HARWOOD

By: /s/ Jay B. Itkowitz

Jay B. Itkowitz (JBI-5349)
Donald A. Harwood
Simon W. Reiff
305 Broadway, 7th Floor
New York, New York 10007
(646) 822-1801
jitkowitz@itkowitz.com
dharwood@itkowitz.com
sreiff@itkowitz.com

Attorneys for Plaintiff
David Gilmore